

the speech? Did he intend to give any fair statement of the constitutional principle as laid down by the hon. member for West Durham? He not only did not do so, but he used language calculated to convey to the House an impression directly opposite. What did the leader of the Government who was then leading the Opposition say as to the rights and powers of this House to interfere in matters of this kind? He said:

"He was glad the hon. member did not propose to ask the House to consider the points raised in the petition when the election case was before another tribunal; at the same time it was not to be supposed that the House had abandoned its rights to control, censure, and, if need be, punish, returning and deputy returning officers."

The only reason he asked this House to stay its hands was the reason I have just read, that, at that moment, the matter was before the courts of the land on a petition filed by one of the electors. So I think we will see that, so far as precedent is concerned, so far as the English precedents are concerned, they are in favor of the position we take. Now, what do the text-writers say on this point? I will quote to the House an authority which is generally received with some respect, May, on Parliamentary Practice, in which he gives his views of the position in which Parliament stood before the passage of the Controverted Elections Act and the position in which it stood subsequently to the passage of the Act:

"A few words will suffice to explain the proceedings of the House, so far as its judicature is still exercised in matters of election. It being enacted by section 50 of the Election Petitions, &c., Act, that 'no election or return to Parliament shall be questioned except in accordance with the provisions of this Act,' doubts were expressed whether this provision would not supersede the proper jurisdiction of the House, in determining questions affecting the seats of its own members, not arising out of controverted elections. It was plain, however, that this section applied to the questioning of returns by election petitions only. When controverted elections were tried by committees of the House, a sessional order required 'all persons who will question any returns' to 'question the same within fourteen days;' and under that order election petitions were received. In parliamentary language, therefore, to question a return was to controvert it by parties interested—not to adjudge it by the House itself. During the continuance of that judicature, the House never attempted to interfere with controverted elections, but after the time had expired for receiving election petitions"—

And this is a point to which I want specially to call the attention of hon. members:

"after the time had expired for receiving election petitions it always held itself, not only free, but legally bound to determine all questions affecting the seats of its members, as numerous precedents attest."

Not as the Minister of Justice attempts to lead this House to believe, not the limitation which he placed upon their powers, questions merely affecting the disqualification of members returned, but, in the language of May, all questions affecting the seats of members of the House:

"Where returns were questioned by petition, the matter was determined by the statutory tribunal; otherwise the House uniformly exercised its constitutional jurisdiction. And such continued to be the position of the House after the judicature of its election committees had been transferred to the judges."

Now, nothing could be plainer than that. It shows that the House at all times and under all circumstances had maintained that which I maintain is really necessary to its independent existence—its control over its own officers and over the returns they make to the House; and if we part with that, and by resolution to-day declare that, no matter how grossly wrong or partisan the return of a returning officer may be, unless some one chooses to question it, the returned member may sit in this House, we will be striking a blow at the independence of Parliament from which we will be a long time rallying. Supposing a returning officer chooses to think that it is more desirable in the interests of the public that he, himself, should be returned and not the man who receives the highest number of votes; suppose he chooses to return a man who is not a candidate at all; suppose any of these extreme cases, or suppose a case which is almost as flagrant, that he returns a man who obtains a small minority of the votes, this House, if they

Mr. DAVIES.

adopt the resolution of the Minister of Justice, will declare that they are powerless, and that, unless some one files a petition in the court, they are not going to question the election at all. The personal right which an elector or a candidate has to take advantage of the Controverted Elections Act and file a petition in the court is one thing. The right which this House has to purge itself of members who are improperly sent here is a higher and a very different thing; and I maintain that that right has never been questioned and cannot be questioned. The House always possessed it and possesses it now. The hon. gentleman went on further to argue, as another reason why the House should not take up the case, that in one sense the case was already before the court, and I felt rather sorry that a gentleman occupying the position he does, as Minister of Justice, should attempt to use such an argument. He says, the question of a recount is before one of the courts, and I ask Parliament to pause while that question is there. The hon. gentleman knows well, no one knows it better, that under the peremptory statute of the land no question of a recount can be taken up, that the time has long expired.

Mr. THOMPSON. Nothing of the kind.

Mr. DAVIES. The hon. gentleman knows perfectly well that it is not possible to have that recount now.

Mr. THOMPSON. Nothing of the kind.

Mr. DAVIES. The hon. gentleman knows well that the matter must be brought before the court within a certain time.

Mr. THOMPSON. So it was.

#### ADDRESS TO HER MAJESTY.

Mr. SPEAKER informed the House that he had received a Message from the Senate transmitting to the House of Commons an address to her Majesty the Queen congratulating Her upon the completion of the 50th year of Her Majesty's auspicious reign, and requesting the concurrence of this House.

It being six o'clock, the Speaker left the Chair.

#### After Recess.

#### THIRD READING.

Bill (No. 15) to incorporate the Imperial Trust Company of Canada.—(Mr. Denison.)

#### IN COMMITTEE—THIRD READINGS.

Bill (No. 39) to authorise the Grange Trust to wind up its affairs.—(Mr. Masson.)

Bill (No. 38) to amend the Act to incorporate the Hamilton, Guelph and Buffalo Railway Company, and to change the name of the company to "The Hamilton Central Railway Company."—(Mr. McKay.)

Bill (No. 35) to incorporate the Berlin and Canadian Pacific Junction Railway Company.—(Mr. Bowman.)

Bill (No. 25) to amend the Act to incorporate the Brantford, Waterloo and Lake Erie Railway Company.—(Mr. Sutherland.)

Bill (No. 43) to incorporate the Niagara Falls Bridge Company.—(Mr. Rykert.)

Bill (No. 45) further to amend the Act respecting the Canadian Pacific Railway Company.—(Mr. Kirkpatrick.)

Bill (No. 57) to incorporate the Prescott County Railway Company.—(Mr. Scriver.)